G. R. S. IX-5]

Previous references.

861 - 15.

1888.

~~191~~

(Courts)

File No. 47/1889

Serial Nos. 15 - 52

Later references.

P.59

GENERAL AND REVENUE SECRETARIAT.

Serial Nos

Major ~~Part~~ B for Dec/1900

SUBJECT.

Addenda & Corrigenda to the "Criminal Rule of practice" No 61.

W D 88—GPB—50,000—24-7-16

Indexed 45

Memo

(26)

Rule of Practice

Chief Courts' Crim'l. ~~Circular~~, No. 61

dy 16 March 1895.

This ~~Circular~~ Rule has been issued without Consulting me; ~~How~~ I had Engr asked for the Bombay & Madras Rules when the question first Came before me, and ~~when~~ a Somewhat different practice had been settled by Mac in Communication with the Chief Judge in 1888/89 as regards Heads of Depts.

Para II of the Rule as now issued is too wide & if it Excludes the Dt. Magt. is objectionable.

The reason given by Mr. Thumbon chiefly for its issue from the Secretariat without reference to me ~~only the~~ point rather to the need for Specially asking me, ~~for the Order~~ as the Chief ~~Just~~ Court Judges' Careful Consideration of the Rule did not dispense with the need for Similar Consideration by the Govt also —

I now want exact information regarding the practice of Madras & Bombay regarding Dt. Magt. & Hd. of Depts, before taking action for a revision of the Rule. I also want the Correspondence of 1888 and 1889 on reference from the Police Dept —

2.12.95 hy.

GOVERNMENT OF MYSORE

Bangalore
5 Feb 1896

32

My dear Sir Shesadri Iyer

Yesterday when you were talking to me about the difficulty experienced in getting records of cases in which Govt may wish to prefer an appeal obtaining an order of acquittal &c. a Mysore the same for other purposes, I was unable to see exactly what was the difficulty or where it originated.

I have sent for and perused the Rule of Practice No 69 of 16 March 1895 published in the Mysore Gazette of 4 April 95 I find that under this Rule every facility is afforded Govt to obtain any record from the Superintendent of Police, or a requisition to the Superintendent of Police Govt or other Officer authorised

by Post to make a Requisition. Under the Act the Lord may authorize each Dpty as the representative of the Lord in each Div to grant Warrants for transmitting the Lord a for the purpose of adding Lord to prefer an appeal in any case of acquittal

Under Para 11 of the Regs. the Clerk of a Court may obtain a copy of the entire record of a criml case by depositing a Cheque for the purpose. We have a Dpty in each Div and a Post Town in each Div. - The Clerks of such Post Town Courts may always be depended to obtain the required copies.

Under para 1 of the Regs. of Dpty is allowed under certain restrictions to inspect a criminal record

In my humble opinion under the new Rules greater facilities are afforded, for the inspection of Court Records & for obtaining extracts therefrom & Copies of Deeds, than before

Yours

C. F. Saunderson

PS I send the Gazette containing the Rules for your perusal

CFS

The Rules does not
really provide for
the Cases mentioned -
The practice is that
Journals be received

July 9. 1896

(34)

My dear Sir

Your letter of the 7th
re Amulda &
Row of T Narsapur
in a case of murder

I have been trying &
the records call for
how far the Amulda
& Klume. But so
as the recent Rules
Chief Court about

Police being ~~to~~ debarred
from having access to
are left unrepealed
public records & you can
expect that close supervi
over the progress of cases
& ~~[illegible]~~ bringing
erring magistrates &
Police officers to book
or getting ~~the~~ any mis
carriage of justice rectifie
in appeal to the higher C
~~[illegible]~~ had ~~[illegible]~~ obtained Cop
my hands are tied in
matter & found myself
impotent for doing

& any good

I appealed & have
been appealing to God
of ever since there in
ion - Convenient orders
were passed but my
appeals have gone in
vain

See my letter to Lcn
no 3878/418 dated 9 June 96
& letters nos 1561/156 &
Dr 2509/261 dated 18 nov 95
& 29 Jany 96

the report of Police
would appear from
what he told me when
he was last here that
he had obtained or
was likely soon to
get the records through
the D.C. & would report
result of his [illegible] to me.

Yours sincerely
M. Gandhi

(35)

To

The Regr the Chief Court

Sir

I am directed to invite the Chief Court to reconsider Rule of Practice No. 61 of 16 March 1895 (Criml Side), as paras I to IV are found to produce much ~~avoidable~~ inconvenience to public business.

The Sanction to this Rule was conveyed in Progs No. 13831 ~~dated~~ J. 801 dd 5 March 1895 without adverting to the existing practice under which, as a matter of ordinary official etiquette all Criminal Courts were complying with requisitions ~~from Criml Courts~~ for Criminal records from the Govt ~~Officers~~ Heads of Depts and from Depts Courts of Districts ~~S 435 of~~

The ~~only~~ provision of law as regards ~~transmission of~~ Calls for Criminal Records ~~provides for~~ is contained

in S. 435 of the Crim. Pro.
Code, deals only with the Case of Superior
Courts wishing to Satisfy themselves
regards the Correctness of the
proceedure of inferior Courts,
and it does not Contravene
that provision, to provide ~~or otherwise~~
by an Recentus Order of Govt that all
Criminal Courts should as
a matter of ~~rule~~ Official
Courtesy Comply with requisitions
for Criminal Records for purposes of
reference made by Dept Courts
~~of other Govt Officers of Superior~~
~~Courts~~. or Heads of Depts — as regards Hd of Depts
Such an order of Govt-Council
exists. Vide No. 7637/735 of 8 Feb 1889,
but it has Come to be regarded
as Cancelled by the issue of
the Rule of Practice in question.
I am to enclose hereunto a
Copy of this Rule of Practice as the
Govt desire it to be amended

17.7.96

Secy -

(36)

Memo.

Requisitions for the Records of Criminal Cases from the Govt. of Heads of Depts.

(Privy Councillor, [illegible])

The practice in this matter is now regulated by the Chief Courts' Rule of Practice No. 61 of 16 March 1895.

Please see my Memo annexed
18/7/96

The sanction of the Govt. to this Rule was communicated to the Chief Court without reference to me and without adverting to the fact that the existing practice was for all Criminal Courts to comply with requisitions for Criminal ~~Courts~~ Records from the Govt. or from Heads of Depts. In 1889 I had some correspondence with Mr Plowden as regards Heads of Depts and in Govt. order No. 7637/735 of 8th Feby 1889, ~~Communicated~~ it was

I mean under the circumstances that the Govt. had obtained the orders of Govr. before he forgot the order No 13 '87
AH

This order was communicated to Chief Court for information of Govr. of Govt. but was only addressed to Chief Court
AH

stated "that, in the opinion of the
"Govt. all Criminal Criminal
"Courts are expected, as a matter
"of official courtesy, if not
"of strict legal obligation, to
"comply with requisitions for records
"from the Inspector General of Police
"and other Heads of Depts. "
This expression of the opinion of
the Govt. had been sufficient
guidance for the Criminal Courts
and no inconvenience of any
kind had resulted from the practice of the Criminal
Courts complying with requisitions
from Heads of Depts. On the
other hand the abolition of this
practice by the Rule of Practice
No. 61 of 16 March 1895 not
only causes grave inconvenience
but also tends to produce a very
undesirable moral effect.

I understand that under para II
of the said Rule of Practice
the Sessions Judge has refused
to send Records called for by
the District Magr., with the result

Very serious inconvenience to public business.

The preamble to the Rule of Practice No. 61 is faulty when it says "Govt. or other Heads of Depts", as Govt is not a Head of Dept, and in the body of the Rule no provision is made for Compliance with requisitions from Hds of Depts, though para IV provides for enabling a Head of Dept. to obtain Copy of a Record by sending his own Copyist to the Court to make a Copy. Moreover I do not think that S. 553 of the Criminal Procedure Code authorizes paras I, & II of the Rule of Practice in question, for the Subject Cannot well be regarded as "proceedings of Criminal Courts" under Clause (C) of the said Section.

It may, however, from what appears from full note (C) as regulating the practice of the Ch. Ct.

No High Court in British India has tried to issue any Rules Corresponding to these paras I & II

The law laid down in S. 435
what Criminal Courts can
send for records from what
other Criminal Courts for the
purpose of examining them
as to correctness, legality &c.
but is silent as to matters
which are dealt with in
the opening paras of the
Rule of Practice in question.
Under such circs I
wd move the Chief Court
to modify the Rule of Practice
as shown in red ink
in the appended Copy, and
when this is done, I wd re iterate the Orders
of Feby 1889 before quoted

17.7.96.

I enclose a draft
of letter to Ch. Court

IN THE CHIEF COURT OF MYSORE.

Criminal Side.

Rule of Practice No. 61, *dated* 16*th March* 1895.

Under section 553 of the Code of Criminal Procedure and with the sanction of Government, the Chief Court has framed the following Rules, ~~regulating the procedure to be observed, when requisitions for records of Criminal cases are made by Government or other Heads of Departments and prescribing Rules~~ for inspection of records by officers of the Police Department.

I. Whenever Government desires to peruse the record of any Criminal trial, a requisition for it signed by the Chief Secretary or other officer authorized by Government to make a requisition, will be sent to the Sessions Judge or to the District Magistrate, according as the trial is in the Sessions Court or before a Magistrate. On the receipt of such a requisition, the Sessions Judge or the District Magistrate shall duly forward the record in accordance with such requisition.

II. Except as directed above, no Criminal Court shall send its records to any Court or any officer or any Department of Government, unless the requisition is made under the authority of any rule or law for the time being in force.

III. When a prosecution is instituted before a Criminal Court by any Department of Government, or when an officer of Government is an accused person, a copy of the final order or judgment shall be sent free of cost to the Head of the Department which instituted the prosecution or to whom the accused officer was subordinate.

IV. If the Head of the Department wishes to obtain a copy of the entire record (other than the copy of the final order or judgment furnished free of charge under the preceding para), he shall make an application to the presiding Judge or Magistrate and send any Officer or Clerk of his Department to make copies. The Officer or Clerk deputed for the purpose shall be deemed to be a licensed copyist and he shall be permitted to make a copy in the precincts of the Court-house and under the supervision of the Head Ministerial Officer of the Court.

V. Whenever it shall appear to any Officer of Police, not below the rank of Inspector of Police, that an inspection of the records of any Criminal trial or appeal will facilitate the detection or prevention of crime or is desired for examination of the conduct of Police officers connected with the case, such Officer may apply to the Sessions Judge or presiding Magistrate of the Court in which the records are lodged for permission to inspect the same.

VI. The application referred to in the preceding rule shall be made in writing and shall contain a description of the records and shall state the purpose for which the inspection is sought, and the Sessions Judge or Magistrate may grant or refuse the application as he may see fit. If the application is refused, the Sessions Judge or Magistrate shall record the reasons for refusal and shall communicate a copy thereof to the Officer of Police concerned. If the application is granted, the Sessions Judge or Magistrate shall make arrangements for permitting the inspection to be conducted in accordance with the next following rule.

VII. Every inspection of records under these rules shall be conducted by an Officer of Police not below the rank of Inspector of Police, it shall take place within the precincts of the Court in which the records are lodged and in the presence of an Officer of the Court who shall be deputed by the Sessions Judge or Magistrate for the purpose and no record or part of a record shall be removed by the inspecting officer from the precincts of the Court.

By order,

V. A. Rajaratna Mudaliar,
Deputy Registrar, doing duty as Registrar.

(3)

Memo.

In re. Chief Court's Circular
No 61 dated 16th March 1895

Judicial records,
and more especially solemn
proceedings of a Criminal
trial, are committed to
the responsible custody
of Govt functionaries, and
their inspection and production
&c, are regulated by Rules
so as to ensure their
safety and integrity.

In Madras there
is no practice of sending
Criminal records, on appeal,
to Government or any
Offr of Govt.

In Bombay, as
a rule the Govt has
to obtain copies like a
private party; but on

exceptional cases in
which Government may
consider it essential to
see any original do-
cuments a Rule of the
Bombay High Court provides
that such documents
may be given into
the possession of the
Officer appointed by Government
to receive them, under
such precautions for
securing their safe keeping
and return as the Court
may deem necessary.—

In Calcutta there
is apparently no similar
rule for transmitting
original records either
to or at the Head
of a District; but there is an
Act (Section of 1877 to the
following effect:- "The Deposition

Judge should send to the Sessions Court any records of a Criminal trial that he may require to satisfy himself whether Government should be moved to direct an appeal against an original or appellate Court of acquittal".

Both the Bombay and Calcutta Rules are referred to in the Calcutta letter of Government No 1373 of 26 Sept 1893, and it is, upon receipt of the ref of that letter, (No 6750 of 5 Oct 93,) the Rule of Practice No 61 of 16 March 1895 mentioned in that -

This Rule of Practice goes further than the

Bombay Rule and direct
Court to comply with
requisitions for original
records signed by the
Chief Secy to Govt, or
other officer authorized
by Govt to make such
a requisition. The Rule
also provides for inspection
of records and for
obtaining copies thereof.

In my humble opinion
the Rule affords every
facility for the Head of
a Dept obtaining the
original records with
the permission of Govt or
those the Chief Secy, and also
copies of the entire record
in any criminal case,
by depositing a Clerk to
take copies. These facilities
did not exist before
the issue of Rule 661,
and under the order
of 1889 (No 7637 of 8 Sept
755)

x which does not
appear to have
been communicated
to the Chief

d is optional with the Presidency Govt of the Ct to comply with or refuse the request for the transmission of a record, as stated by Mr Plumer in his letter No 89 of 11 January 1889.

I think it would be well to retain the first four paragraphs of Rule 61.

If under para 1 the Govt can speedily empower the Inspt Genl of Police, as the representative of Govt in the Colombo Dept to make the requisition for records whenever deemed necessary, the inconvenience & difficulty complained of by Govt Madras Rao will be obviated. Such requisition for original records can

As you have not

be made of the
Lord of Ches in
communication with
the D[r] magte.

If however it be
considered necessary that
each Officer as well
as the Lord of Ches
should have the
power to call for and
a separate Rule will
have to be issued of the
Court -- for regulating the practice
of the Court in such cases. (Vide clause C 1553 Civil Code).

I have no objection
to the reference being
made to the Chief
Secretary, for the
consideration of the
Judges, the communication from the Lord of Ches
and asking how they
would propose to remedy
the inconvenience noted.
The adoption or cancellation
of the form from Forms
need not, it seems to me
be suggested.

Mr Arbuthnot

The Judges may be asked to suggest such modifications in the Rule, as would give effect to the order of Sept 1889 and make it obligatory on the Civil Courts with requisitions from Heirs & Devisees for records —

A. T. Thompson Chief

18th Jan 1896

Further Memo

I fear that the inconvenience now experienced cannot be cured by any authorization of the Govt in the way Mr Thumboo Chettiar suggests, because para 2 of the Rule stipulates "Whenever Govt. desires to peruse the record of any Crim.l trial" This cannot be construed to include a Vicarious perusal by the Dist. Magr of Dt. of Dept.

I wd. go even further than I said in my memo. of the 17th and say that the whole rule shd be cancelled in toto as being altogether ultra vires.

The custody & disposal of Crim.l records is not a matter within the jurisdiction of the Chief Court. The property in such records vests in the Govt & not the Chief Court. Judl. Control over records ceases when judgment is pronounced - thereafter the records are under the absolute Control of the Govt., and the Courts are in possession as agents of the Govt. of such records as of the Court-Furniture & library for instance. The matter shd be regulated by an Executive Order of the Govt. & not by a Rule of Practice of the Chief Court.

"Practice & Procedure" in S. 553

does not authorize the Rule in question as contained in any of its parts. Nor can the inspection therein sup. to be regarded as inspection by the Police through which the Rule mentioned provides I object to para 1 because it confirms what I regard as the absolute power of the Govt —

The Code is rightly silent because the Court's Concern Ends with termination of the just. proceedings and thus Court is bound by disciplinary rules of the Service to obey whatever Govt orders regards disposal of its records —

I w. ask Ch. Cl: as politely as possible to withdraw the Obnoxious Rule. It is demoralizing as misleading the ignorant as to relative functions of Ch. Cl & Govt —

19.7.40

No High Court any where in India has found it necessary to pass a rule such as that in question. What the Chamber (whether appears to relates to Govt. advocates & pleaders & not to Govt officers now authorized by Govt by

(40)

Mr Glen W Sherman of Jersey

The other day the Governor wanted to know if the Calendar or any Right in Order has opened a Circular to the effect that Just Reds cannot be sent to any Public Office or Body of a Depth - I found the Calendar Right opened a Circular in 1875, of which a [x] is enclosed - You may send this to Governor

In making a Rule was passed in 1802, No XIII that no Card or Seal should be removed out of the Record Room without the order of the Vice Entered Brethren

+ Hon
he referred
Ld. ...
Cun C

In 1874 the Madras High Ct held that even a Govt Valkil should obtain consent of a Ward in the usual way and that an application of such Ward could not be allowed in spite of the objection of all parties concerned so far as the Court can consistently with the safe custody of Ward's property C endeavd

The Bombay High Ct also followed the Madras Calcutta Rules but granted for such reasons being sent of Ward in very exceptional cases. The

re what the Mayor Chief H-
has also done.

Yours

G. H. Thompson Esq

22/11/96

40
a

By High Court of
Calcutta

Circular order No 15

Dated Calcutta the
16th December 1875

The Court directs all records of cases be retained in the record rooms of the Courts to which they pertain, or of the Superior Court of the district, & that they be not allowed to pass out of the custody of the officers of such Courts, except when called for by Superior judicial authority, or required, for the purposes of Section 138 Act VIII of 1859, by a Civil Court not at the same station.

2. It is improper &

inconvenient that records of the Courts of Justice should be sent to other public officers or functionaries if a reference to their contents is required, the proper procedure is ordinarily to obtain copies of the requisite papers.

3. The Court desires to point out to Civil Judges of every grade the necessity for exercising careful discretion in acting upon the provisions of Sec 138 of the Code of Civil Procedure, Act VIII of 1859 which are found to be often abused

By order of the High Court

(Sd) W. M. Southar

Registrar

(40/6)

Madras

Regulation XIII of 1802

(Records)

To obviate injuries arising to public or private rights or property, by the loss, destruction or removal of the records of the Courts of Judicature, and with a view to facilitate reference to them, the following rules have been enacted.

6 It shall be the duty of the keepers of the records to see that the records of the Court are not destroyed by insects, damp or otherwise, and that they are not removed without the orders of the Court

(40/C)

Madras

Records — in Appeals

High Court proceedings.

18 March 1874 No 545

In Criminal Appeals, record to lee open for the inspection of all parties interested so far as this is consistent with the safe custody of records.

Read letter from the Chief Secretary to Govt, dated 15" Dec 1873, forwarding for such orders as the High Court may deem fit, letter from the Magistrate of the — District suggesting that instructions should lee issued to Sessions Judges to allow the Govt Vakil to inspect the records of criminal appeals in open Court

—

In his letter, the Magistrate of the-

District adverts to an order of the Sessions Judge by which he directed the Govt Vakil to apply for copies of the record which he requires in the usual way.

The order of the Sessions Judge in the particular case was in accordance with the usual practice But there is no objection to the records being open for the inspection of all parties interested so far as this is consistent with the safe custody of the records Sessions Judge must use their own discretion in the matter.

Note:

Section 553 of Criminal Procedure Regulation para 1, provides that with the Sanction of the Government of Mysore, the Chief Court may frame Rules for the inspection of records of Subordinate Courts and I am inclined to hold that it has the same power as a chartered High Court has under Section 554 cl 1 and that the Rule of practice No: 61 is therefore valid . In this view the Dewan's contention that the matter is outside the jurisdiction of the Chief Court and rests with the Government is not apparently correct.

But the Government as the final sanctioning authority of all Rules of practice framed by the Chief Court is I contend competent to require the the Chief Court to make any alterations in them which it may consider necessary.

And as the Rule of practice in question was admittedly not fully considered by Government before sanction was issued, I think, there is ample reason for requiring its revision.

The practice obtaining before this Rule was passed, permitted Heads of Departments and Deputy Commissioners to send for records when required

It may perhaps be contended that this para refers to inspection of the court records by superior officers to see that they are properly preserved and not to their being sent for reference by officers of other departments. It seems to me that official inspection alone, could not have been intended for, these records as well as Registers, Returns &c should also have been included, or more properly inspection of the courts would have been mentioned. Moreover the High Courts at Calcutta & Bombay have framed some rules regarding the reference to the original records by Commissioners of divisions and by Government in some cases under the corresponding section 554 and they could have only acted under para 1 or clause C of the second para which empowers them to make rules for regulating its own practice and that of the Subordinate Courts. The High Courts or Chief Courts would therefore seem to have the power to frame rules in the matter either under para 1 or clause C of the 2d para. To make sure however it is desirable to refer if possible to the Criminal Circular orders of the different High Courts.

and as by allowing such practice to continue no practical inconvenience or danger to the safety of the records is likely to ensue, there can be no valid objection to the proposed revision. As on the other hand, unnecessary cost in the shape of copying fees and delay in furnishing copies will be saved, there is all the greater reason for the revision.

I believe further that if the question were discussed with Judges of the Chief Court, the matter can be easily arranged. The last letter of the Chief Court does not fully go into the question but shows a readiness on their part to meet the wishes of Government. See letter dated 26th. Sepr. 1893:-

The Chief Court is willing to authorize the Government Advocate and District Magistrate to send for Records as agents of Government and it is only required to add to these the Heads of Departments and we shall have all that is wanted for our purpose. The Secretary may draft a letter to the Chief Court and submit it for orders of Dewan.

× See accompanying draft.

(45)

To

The Registrar of the

Chief Court Of Mysore.

Sir,

I have the honor to acknowledge your letter No $\frac{2370}{110}$ dated 20th. Oct. 1896 stating that the Judges of the Chief Court have no objection to revise Rule of Practice No 61 embodying in it the modifications proposed in paras 4,5&6 of your letter No: $\frac{1373}{61}$ dated 26th. Septr.1893. I am directed to state that it is desirable to empower Heads of Departments besides the Government Advocate and Deputy Commissioners to send for records of Criminal cases for reference when they wish to advise Government for prefering an appeal against the orders of the Criminal Courts or for taking any further action with regard to such cases and to request that the Rule of Practice may be accordingly modified.

(47)

Received 8th December

13853. 22/3/98

I have letter from Sir Sherbrooke Jephson myself — the matter is pressing since yesterday we first communication has been fell. It is a matter in which there is unfortunately a difference of opinion between Sir Sherbrooke Jephson & myself — It can await despatch till his return

AJ
24.8.1900

Let this be acknowledged
C
25/8/00

[illegible] 25/8/

Sent. No. 187
File No. 4 -

Sales Brooks Newman.

With reference to your remarks "If the Police Dy Li letter of 26th April last had been sent to me I should probably have been directed to direct the Govt Advocate to prefer an appeal at once & leave the case in the hands of the Chief Court - it is too late now" I respectfully submit that under Govt Pro Mr Camp 2391-4a dated the 25th January 1868, the Govt Advocate has to be consulted & his opinion obtained before an application is made either by the Dy Magte or by the Dy. P. for sanction to the [illegible] to appeal. The Police Officers last named have not of late been generally consulting the Govt. Advocate before moving the Govt.

14273

The Record may be sent for the entire records that a Summons the Judge of acquittal Committy Magistrate for copies of any material papers with a memo as to contemplated appeal of the Crown Counsel

Statement of the Officer (if any) and the reply that and as to whether the Letter to appear has

10/9/1868

for the reason that they are unable under existing orders to call for records and send them to the Govt Advocate who is the legal custodian of the records and would naturally be the proper person to offer his opinion whether the present practice of either the Admiralty or the L.G.P. Boards to Govt, for Govt calling for records & transmitting the same to the Govt Advocate for opinion & if any afterwards on receipt of such opinion, dispensing such orders as it may deem proper in the particular case now under consideration with that practice.

8/19/20

It is the Board that is legally competent to call for records; but the Dominion Parliament is competent to call for records of any case of this description (which Ryan case it is not is) You may say that although the Board is competent to call for records & transmit the same to the Govt Advocate for opinion & afterwards on receipt of such opinion dispense with such orders as it may deem proper in the particular case now under consideration with that practice.

8/19/20

File sub. Sect.
Please read paras 1 &
2 of sub. No. 14 (the
Rule of Practice
under discussion)

14/5

Rei is in order
for me to issue
writs & file them
Rei - It has no power
whatever to control
the arrangement of pleadings &

78.

Gen. 30.]

Judl

18.4.95.

Section Courts
File No 9-88
Serial No 17

1895 13876.
F/319

From
The Excise Commissioner
in Mysore.

(23)

To
The Chief Secretary to the
Government Dewan of Mysore.
Judicial Department

Dated 16th April 1895
Despatched 17th April 1895
Received

Enclosure No.
General No. 4268
No. 408

In reply to

SUBJECT.

Requests to be informed if the Government Circular about Criminal Records being sent to Heads of Departments for reference, has been superseded by the Chief Court Rule of Practice.

Sulmo

The rule of Practice referred to having been issued under the previous sanction of Govt the opinion conveyed in Cir No. 7637 & the 8th Feby/89 must be considered as superseded.

22/4

Please put up the Rule of practice quoted

Dewan
23/4

Sulmo
25/4

To the 1st councillor.
The former file is put up.
If the circular of the 8th Feby 89 be regarded as a law rule, the saving clause of Sec II of the Rule of Practice may be held to apply to it. Otherwise, the present Rule must be held to rescind the previous practice.
A draft is putup for approval
26/4 Dewan

X Dewan

26/4

Read:
19/4

References (to be entered only in the Dewan's Office.)

To General Record.
Please put up the Govt circulars quoted within.
Refs. 19-4-95.
References putup. 22/4
22/4.95.
Submitted 22-4-95

Excise Commissioners Office

No. 4268/408 Bangalore, dated 16th/17th April 1895.

(23)

From

The Excise Commissioner
in Mysore

To

The General Secretary to the
Government of Mysore
Judicial department.

Sir,

I have the honor to request the favor of being informed whether the Government Circular No. 7638-47, dated 8th February 1889, to 206 District Magistrates and Sessions Judges about sending for reference, Criminal Records on the requisition of the Heads of Departments, has been superseded or cancelled by the Chief Court Criminal Rule of Practice No. 61 dated 16th March 1895.

I have the honor to be,
Sir
Your most obedient Servant
[illegible]
Excise Commissioner
in Mysore

No 18921 / J1168 D/ 26·4·95

Section Courts
No J-88
Serial No 18

(24)

To

The Excise Commissioner
Mysore

Sir,

In reply to the Engineering
contained in yr no 4268/408 of
the 16th inst, I am directed
to state that the Rule of
Practice having been issued by the Chief
with the previous sanction of
Govt, all previous orders on the subject must
be considered to have been superseded.

I have &c.

Secy
26-4-95

26/4 R 23/4

(15)

15

Section Courts
Gen. 30.
File No 1-88
1895
Serial No 19
From

OFFICE OF THE DEWAN OF MYSORE
35-86
4 1895
J 5 4½

The Inspector General of Police
in Mysore.

(25)

To General
The ~~Chief~~ Secretary to the
Government of Mysore.

Dated /

Despatched 2 November 1895

Received

Enclosure No. one & a file.

General No. 15-61
No. 15-6

I/w forwarding copies of correspondence between this Office and the Asst Commissioner Hill droog re refusal of the Sessions Judge Tarikere to grant records in a case reported the Rule of Practice no 61 of the 16 March 1895 of the High Court which prohibits the grant of records may be revised.

the last page of the memo of 2.12.95 wanted some explanation what is the same submitted to him

211

3/12/95

J. 4-11-95

Refer 4/11

To Union Secretary writing

Secretary 3/12/95 JP.

OFFICE OF THE
INSPECTOR GENERAL OF POLICE IN MYSORE

No. 156 / 156 Dated Bangalore, 1/2 November 1895

ENC. One to a file.

FROM

THE INSPECTOR GENERAL OF POLICE
IN MYSORE.

TO General

THE ~~CHIEF~~ SECRETARY TO THE
GOVERNMENT OF MYSORE.

SIR,

I have the honor to forward herewith copies of correspondence that has taken place between this office and the Deputy Commissioner of Chitaldroog regarding the obtaining of records in Sessions case No. 6 of 1894-95 from the Court of the Sessions Judge, Nagar Division.

2. In accordance with a circular issued by me, a brief memo is sent at the close of each Sessions regarding the cases disposed of at the Sessions. On the report of the Deputy Commissioner for the 3d quarter, I called his attention to the result of the trial in Sessions case No. 6 of 1894-95, which was a case of murder and had ended in the acquittal of the accused. He in usual course asked the Sessions Judge of Nagar

for the records in the case. But in the meanwhile Rule of practice No. 61 dated 16th March 1895 had been issued by the Chief Court. These prohibit even a District Magistrate from obtaining records from the Sessions Court and the records were accordingly refused. I need not point out how the interests of justice and of good Government will suffer if access to the records of a criminal trial is denied to the functionary primarily responsible for the peace and well-being of a District.

3. I may here bring to the notice of Government that as per letter No. 7637/735 dated 8th February 1889 from the Chief Secretary to the Inspector General of Police enclosing copies of correspondence between the Dewan and the Chief Judge, even the Inspector General of Police and the Heads of other Departments were declared to be entitled to call for the records of criminal courts. The Chief Secretary said "that in the opinion of the Government all "criminal courts are expected as a matter of "official courtesy and duty if not of strict legal "obligation to comply with requisitions for "records from the Inspector General of Police "and other heads of Departments."

4. As regards the advantages to the Administration resulting from giving the Inspector General of Police ready access to the records of criminal trials, enough has been said in letter No. 1192/259 dated 15th August 1888 from the Inspector General of Police to th

the Chief Secretary and the views of the Inspector General have been concurred in by the Dewan in his letter No. 1049 dated 13th September 1888. to the officiating Chief Judge.

5. I would solicit that Government may be pleased to get the Rule of Practice revised and the existing practice restored.

6. A printed copy of the Rule of Practice is enclosed for ready reference.

I have the honor to be,
Sir,
Your most obedient servant,

V.N. Madhavadas
Inspector General
of Police

No. 3123/136 Dated 5th/6 April 1895

(25/a)

From,

The Inspector General
of Police in Mysore

To,

The District Magistrate,
Chitaldroog

Has the honor to request that he will be so good as to look into case No. 128 Davangere culpable homicide (19-10-94) in which the accused Gowdappa was sent up to take his trial before the Sessions Court on a charge of having beaten his wife Deveeramma with a rice pounder on her occiput, killed her and thrown her body into a well, but was acquitted by the Sessions Judge.

Signed/ V. P. Madhava Rao
Inspector General
of Police

From The Deputy Commissioner
Chitaldroog

To. The Inspector General
of Police in Mysore

No. 119 Dated 11/13th September 1895

With reference to docket No. 3123/136 dated 5th April last, has the honor to forward copy of docket No. 180 dated 4th instant from the Sessions Judge, Nagar, and to observe that as copies of the record cannot be procured by the undersigned under the rules recently promulgated by the Chief Court, Government may be moved to call for the records and send them to the undersigned in order to judge what further steps may be taken in connection with the Davengere culpable homicide case.

(Signed) M. S. Narayen Rao
Offg. Deputy Commissioner
Chitaldroog District

From. The Sessions Judge
Nagar Division

To. The District Magistrate
of Chitaldroog

Dated

No. 180. Dated 4th September 1895

His docket No. 61/13 dated 15th August 1895 requesting permission to depute an Inspector of Police to inspect the records in Chitaldroog Sessions case No. 6 of 1894-95 Government versus Gowdappa under the provisions of para 5 of the Chief Court's Rule of Practice, Criminal, No. 61 dated 16th March 1895 and take copies of such papers as may be necessary.

In reply has the honor to observe that the taking of copies is only provided for under para 4 of the Rules and not under para 5 which only provides for permission to inspect the record and not to take copy thereof. If the application is made under para 5 of the Rules as the District Magistrate states, then under para 6 he will have to state the purpose for which the inspection is sought.

/Signed/ B. Sirumalachary
Sessions Judge
Nagar Division

"True Copy"

/Signed/ M. S. Narayanrao
Offg: Deputy Commissioner
Chitaldroog District

From,

The Inspector General
of Police in Mysore

To

The Deputy Commissioner,
Chitaldroog

No. 1029/61 Dated 21st September 1895

His No. 119 dated 11th Instant stating that, under the rules recently promulgated by the Chief Court, it is not possible to obtain magisterial records in the Davengere culpable homicide case from the Sessions Court and requesting that the Government may be moved to call for the records and to send them to the Deputy Commissioner.

Has the honor to inquire how he explains the inordinate delay that has taken place in taking action on this office docket No. 3123/136 dated 5th April 1895 and to request that if any previous correspondence has taken place between the District Magistrate and the Sessions Judge, copies of such correspondence may be forwarded to enable this

office

office to address Government on the subject.

[Signed] V.P. Madhava Rao
Inspector General
of Police

From,

The Deputy Commissioner,
Chitaldroog District.

To,

The Inspector General
of Police in Mysore

No. 121/1 Dated 21st October 1895

Enclosures 2.

His docket No. 1029/61 dated 21st Ultimo calling for copies of correspondence between this office and the Sessions Judge about the Sessions records in the case of Gowdappa.

In reply has the honor to forward copies of the marginally noted correspondence together with a printed copy of Rule of practice No. 61 of the Chief Court on the subject of the inspection of the criminal records &c.

2. The delay referred to in the above is due to the non-receipt of the records

1. Docket No. 310-39 Dy 9th April 1895 to the Sessions Judge
1. Sessions Judge's docket No. 847 Dy 16th April 1895
1. Docket No. 61/13 Dy 15th August 1895 to the address of the Sessions Judge
1. Sessions Judge's docket No. 180 Dy 4th September 1895

from the Sessions Court.

(Signed) M. S. Narayan Rao
Ag: Deputy Commissioner

From The District Magistrate
Chitaldroog District

To The Sessions Judge
Nagar Division

Dated 9th April 1895

No. 310/39

Has the honor to request that the entire record in Chitaldroog Sessions case No. 6 of 1894-95 (Govt. ~~vs~~ Gowdappa) may be kindly forwarded to this office for reference.

(Signed) C. Sreenivasiengar
District Magistrate

From The Sessions Judge
Nagar Division

To The District Magistrate
of Chitaldroog

Dated 13th
Despatched 16th } April 1895

No.

No. 847

His docket No. 310/39 of the 9th Instant calling for the record in Chitaldroog Sessions case No. 6 of 1894-95 (Govt. vs. Gowdappa).

With reference to the above, has the honor to invite the attention of the District Magistrate to para 2 of the Chief Court's Criminal Rule of Practice No. 61 dated 16th March 1895, published at page 289 of part II of the Mysore Gazette dated 4th April 1895 and to request to be informed of the rule or law under the authority of which the requisition in question is made.

(Signed) B. Sirumalachary,
Sessions Judge,
Nagar Division.

From

The District Magistrate
Chitaldroog District

To,

The Sessions Judge
Nagar Division

Dated 15th August 1895

No. 61/13

His docket No. 847 of the 13th April 1895 requesting to be informed of the

authority under which a requisition was made for record in Chitaldroog Sessions case No. 6 of 1894-95 (Govt. vs Gowdappa)

In reply, has the honor to state that the undersigned will send, if the Sessions Judge permits it, an Inspector of Police to inspect the records of the case under the provisions of para 5 of the Chief Court Rule of Practice (criminal) No. 61 dated 16th March 1895 and to take copies of such papers as may be necessary.

An early reply is requested.

(Signed) M. S. Narayan Rao
Ag: District Magistrate

From

The Sessions Judge
Nagar Division

To,

The District Magistrate
of Chitaldroog.

Dated 4th September 1895.

No. 180

His docket No. 61/13 dated 15th August 1895 requesting permission to depute an Inspector of Police to inspect the records

records in Chitaldroog Sessions Case No 6 of 1894-95 (Govt. vs Gowdappa) under the provisions of para 5 of the Chief Courts Rule of Practice Criminal No. 61 dated 16th March 1895 and take copies of such papers as may be necessary.

In reply, has the honor to observe that the taking of copies is only provided for under para 4 of the Rules and not under para 5 which only provides for permission to inspect the record and not to take copy thereof. If the application is made under para 5 of the Rules as the District Magistrate states, then under para 6 he will have to state the purpose for which the inspection is sought

/signed/ B. Virumalachary
Sessions Judge
Nagar Divise

"Copies"

/Signed/ M. S. Narayan Rao
Ag: District Magistrate.

"Copies"

/B/ Madhavarao
Inspector General
of Police

(27)

6614 7-12-95

Section Court 737
File No 1-88
Serial No 20
To

Messrs Higginbotham and Company Madras.

Sirs,

I have the honour to request that you will be good enough to forward to the address of the Govt Secretary, & by value payable parcel a copy of the Criminal Rules of Practice of the Madras High Court.

I have &c.

6/12/95

For General Secretary

Section No. 6615 917-12-95
File No. 1158 1-88
Serial No. 21.
No.

(28)

The Curator,
Govt Book Depot,
Bombay.

Sir,

I have the honor to request that you will be good enough to forward to the address of the General by value payable parcel, Secretary, a Copy of the Criminal Rules of Practice of the Bombay High Court.

I have &c.

[illegible]
5/12/95
For General
Secretary

Gen. 301

Section Circulars

File No 1-21

Serial No 22

From The Asst Registrar
High Court, Appellate Side
Bombay

OFFICE OF THE
5047
1
DIWAN OF MYSORE
1895/96 8775

To

The Chief Secretary to the

Govt. of Mysore.

Dated 17 Dec 95

Despatched

Received

Enclosure No.

General No. 2530
No.

Stating that there is no such book called "the Criminal Rules of Practice of the Bombay High Court" but there is a book called "Criminal Circular orders of the High Court.

J

References to be marked.

Submitted with references.
Bdy 6-1-96.

Issue for the Criminal
Circular orders.

7/1/96.

M.G.O.P.B.—4-12-95—3000

(29)

No. 2530 of 1895.

From

THE ASSISTANT REGISTRAR,

High Court, Appellate Side,

B O M B A Y.

To

THE GENERAL SECRETARY

to the Government of

M Y S O R E.

Bombay, 17th December, 1895.

Sir,

In reply to your letter No. 6615 J 738 of the 7th. Instant addressed to the Curator, Government Book Depot, Bombay, and transferred to this office for disposal, I hav the honour to inform you that there is no such book called "the Criminal Rules of Practice of the Bombay High Court" but this office has got a book named "Criminal Circular Orders of the High Court" which can be had for Rs. 3-10-6.

I have the honour to be,

Sir,

Your most obedient servant,

ASSISTANT REGISTRAR.

No. 7639 918-1-96.

Section 1885-3 Parts
File No 1-88
Serial No 23
No

30

The Assistant Registr
High Court. Appellate
Side,
Bombay.

Sir,

In acknowledging
the receipt of your
letter no 2530 dated the
17th ultimo, I have the
honor to request that
you will be so good
as to forward a
copy of the Criminal
Circular orders
referred to therein,
together with a bill
for the cost thereof.

I have &c.

7/1/96

General Secret

Section Courts
Gen. 30.
File No 1-88
Serial No 4
From

6303.
1896.
J 955

The Inspector General of Police
in Mysore.

3.

To

The General Secretary to the
Government of Mysore.

Dated 29
Despatched 30 January 1896.
Received 31 ——"——

General No. 2509
No. 261

Enclosure No.

Requesting that early orders may be passed in this office letter No. 1561/156 of the 16th November 1895 as the Chief Court's Rule of Practice No. 61 of 16th March 1895

J
31.1.96

OFFICE OF THE

INSPECTOR GENERAL OF POLICE IN MYSORE.

No. 2509/261 Dated. Bangalore 29 January 30 1896

Enc.

FROM

THE INSPECTOR GENERAL OF POLICE
IN MYSORE.

To

THE GENERAL SECRETARY TO THE
GOVERNMENT OF MYSORE.

SIR,

Adverting to this office letter No. 1561/156 of the 18th November last regarding the Chief Courts Rule of practice No. 61 dated 16th March 1895, I have the honor to request that Government will be pleased to pass early orders in the matter.

2. Occasions frequently arise in which the Conduct of Investigating Police officers is called in question and it is very often necessary in judging such conduct, to refer to the evidence recorded in the case and the judgement or order of acquittal passed by the Magistrate or Sessions Judge. To quote a case in point, I have before me a report regarding an Amildar having mismanaged a murder case. It is stated that when holding the Inquest he made out the death to be a case of Suicide which was on enquiry, found by the Superintendent of Police to be a murder. The case was worked up by the Police independently of the Amildar and placed before the Magistrate, who appears to have discharged the accused. The Superintendent of Police has made a report against the Amildar, but I am unable to arrive at an opinion in the matter in the absence of

the

the Magisterial records, a reference to which is necessary to see what the Magistrate has said regarding the case and what the several witnesses have deposed.

3. I would therefore urge that in the interests of good administration, the Rule of practice referred to may be revised and the orders of Government as contained in the Chief Secretary's No. 7637 of 8 D. February 1889 / 735 restored, so that I may be in a position to obtain on my own requisition records from Criminal Courts for purposes of reference.

I have the honor to be,
Sir,
Your most obedient servant,

M. Ramchandra Rao
Inspector General
of Police.

1168

Gen. 30.

From The Inspector General of Police
Section Courts in Mysore.
File No 1-88
To
Serial No 25
The ~~General~~ Secretary to the Government of Mysore,
General & Revenue Departments.

Dated 9
Despatched 10 June 1896.
Received 11— 96.

General No. 0838
No. 418

Enclosure No. one

29.

H-a slip-1
Shows how case
was

1896

Jud.
11/6/96

R.S. Put up Chief Secy's: No 7637 07
735
8 July 89.

PWB.
13/6/96

The references are in the judl Branch
vide Genl no 13876 & 14-12-95
1319
from the Excise Commr Mysore.

PWB.
13/6/96

PWB.
13/6/96

The Memo 1561 & 1-11-95
156
referred to in the letter is
together with all the previous
papers ~~from~~ ~~the Notification~~ ~~&~~
~~Consent~~ ~~for modifying~~ the
rule of Practice No 61 were
submitted to Dewan Bahadur
~~on~~ 14-11-95.

Book. 15-11-95.

Subs PWB. 15/6/96.

Subs Secretary
PWB
17/6

Sd by Dewan in
confirmation of
19/6/96.

Work on Dewan file
& put up
20/6

Subs 25/6

In forwarding copy of
letter no 440 of 29 May 1896
from the Sessions Judge Bleie
Mysore, in civil. attention
to previous references and
requests that the Chief
Court rule of practice No 61
of 16 March 1895 prohibiting
the obtaining records
from the Sessions Court
may be revised and the
old order restored.

OFFICE OF THE

INSPECTOR GENERAL OF POLICE IN MYSORE.

No. 3838/418 Dated 9 June 1896.

Enc. one

FROM

THE INSPECTOR GENERAL OF POLICE
IN MYSORE.

To

THE ~~GENERAL~~ SECRETARY TO THE
GOVERNMENT OF MYSORE,
General and Revenue Departments.

SIR,

I have the honor to forward herewith Copy of letter No. 440 of the 29th May 1896 from the Superintendent of Police, Mysore, reporting that the records in the Makanhally murder case which were twice called for from the Sessions Court through the District Magistrate, have not been received up to date and that he has again written for them to the District Magistrate.

In this connection, I beg to invite the attention of Government to my letter No. 1561/156 of the 1st November 1895 and subsequent reference No. 2509/261 of the 29th January 1896 requesting that the rule of practice No. 61 dated 16th March 1895 issued by the Chief Court prohibiting the obtaining of records from the Sessions Court

may

may be revised and the orders of Government as contained in Chief Secretary's No. 7637/735 of the 8th February 1889 restored.

3. I request the favor of early orders being passed in the matter.

I have the honor to be,
Sir,
Your most obedient Servant,

M Ramachandra Rao

Inspector General
of Police.

Gen. Serial No. 31.]

1896 (33 a)

From The Superintendent of Police,
Mysore District.

To The Inspector General
of Police in Mysore.

Dated 29th May 1896

Despatched 1st June.

Received

Enclosures No.

General No. 440
No.

Sir,

I have the honor to inform you that the forwardal of the entire records in the Chatanhally murder case from the Session's Court was twice requested through the District Majistrate, but they have not been received up to date. I have again written for them to the District Majistrate this day.

I have &c.

Signed C. Haudin.
Superintendent of Police
Mysore District.

"Copy."

Inspector General
of Police.

Section Courts
Gen. 30.
File No 9-88
Serial No 26
From

OFFICE OF THE
715
23 JUL 1896
1896 713
BANK OF MYS

The Inspector General of Police
in Mysore.

To

The ~~General~~ Secretary to the
Government of Mysore.

Genl & Rev: Deptt.

Dated 21st July

Despatched 22 July 1896

Received 23- at Camp Mysore

General No. 265
No. 29

Enclosure No. one

Submitting copy of the orders of the Madras Government on the granting of copies of criminal records to heads of departments.

The reference quoted within & connected papers were submitted to Mr Purnaiya Diwan Dewan Bahadoor on 4-11-95. How these are said to be in the D. H. C.

J. 23.7.96

Bijapur 27-7-96.
may be also sent

This is an important letter - Why was it not shown to me either before it was sent to the D. H. C or after it was returned back from it? I see it for the first time today in this file.

26/12/96.

OFFICE OF THE

INSPECTOR GENERAL OF POLICE IN MYSORE.

Camp Mysore,

No. 265/29 Dated 21st/22 July 1896

Enc. One

FROM

THE INSPECTOR GENERAL OF POLICE
IN MYSORE.

To

THE GENERAL SECRETARY TO THE
GOVERNMENT OF MYSORE.

Genl & Rev: Deptts

SIR,

In continuation of this office letters noted in the margin requesting that the rule of practice No. 61 dated 16th March 1895 issued by the Chief Court prohibiting the obtaining of records from the Sessions Court may be revised and the orders of Government as contained in Chief Secretary's No. 7637/735 of the 8th February 1889 restored, I have the honor to forward herewith for the information

of

No. 1561/156 dated 1st November 1895
No. 2509/261 dated 29th January 1896

of Government, copy of the orders of the Madras Government No. 1839, Judicial dated 9th September 1893 regarding the granting of copies of Criminal records to Heads of Departments, received with letter No. 2772 dated 14th July 1896 from the Assistant Inspector General of Police, Madras.

I have the honor to be,

Sir,

Your most obedient Servant,

/By/ Jardhanaraw

Inspector General

of Police

Government of Madras. (39 A)

Judicial Department

Read — again the following papers: —

G. O., dated 22nd June 1892, No. 1152, Judicial.

Abstract. — Declaring G. O., dated 19th September 1891, No. 1956, directing that the charges incurred on account of copies of judgments furnished by Magistrates be met from magisterial contingencies, applicable to all departments of the Administration.

G. O., dated 7th February 1893, No. 274, Judicial.

Abstract. — Directing Sessions Judges to debit to their contingent allowances the cost of copies of judgments and depositions furnished to departments of the Administration, and stating that the instructions conveyed in G. Os., No. 1956 of 1891 and No. 1152 of 1892, will apply also to

copies

copies of depositions furnished by Magistrates.

Read — also the following letter from M. R. Ry. K. Subbarayadu Pantulu Garu, Sub-Divisional Magistrate, Adoni, to the District Magistrate, Bellary, dated Adoni, 13th July 1893, No. 565: —

Referring to Magisterial Standing Order, No. 7 of 1893, as amended in your Index No. 86, dated 6th instant, I have the honor to enquire whether the charges incurred on account of copies of judgments furnished by magistrates to officers of other departments in cases other than those in which the subordinates of such departments are concerned can be met from magisterial contingencies. For instance, the Superintendent of Police applies for a copy of judgment in a case in which a postal subordinate was concerned; can that copy be furnished on court copy stamp papers and the charges incurred therefor met from magisterial contingencies? It will be observed that

Government

Government has, in its Order, dated 7th February 1893, No. 274, Judicial, directed Sessions Judges to debit to their contingent allowances the cost of copies of judgments and depositions furnished to departments of Administration irrespective of whether the Subordinates involved in the cases belong to such departments or not; and I am, therefore, of opinion that the instructions contained in G. Os., No. 1956, dated 19th September 1891, and No. 1152 dated 22nd June 1892, apply to judgments and depositions in all cases irrespective of the departments to which the Subordinates concerned in those cases belong. If my presumption is correct, I beg respectfully to submit that Standing Order, No. 7 of 1893, will have to be further amended by the omission of the words "in cases against the subordinates of such departments."

2. Requisitions are being often made on Magistrates by Inspectors of Police for copies of judgments required for the purpose of proving previous convictions of certain prisoners and

for

for other purposes. I beg to take advantage of this opportunity to have it made clear (a) whether the instructions contained in S. O., No. 7 of 1893, as it stands, are to be held to apply to such copies also, and (b) whether, if held to apply, the requisition in such cases is to come from the Superintendent of Police himself or from Division Police Inspectors, keeping in view the Order of Government, No. 1221, dated 16th June 1893, Judicial.

Magl. Ref: No. 775.

Submitted to the Chief Secretary to Government, Judicial Department, Madras. The District Magistrate concurs with the Deputy Magistrate, but refrains from passing orders because the cases mentioned do not appear to the District Magistrate to be covered by the orders of Government already issued.

(Signed) C. E. Plunkett,
for District Magistrate.

23d August 1893.

Order — dated 9th September 1893, No. 1839, Judicial.

In the two Proceedings of Government read above, Sessions Judges and Magistrates were ordered to supply copies of judgments and depositions upon the requisition of departments of the Administration and to debit the cost of supplying such copies to their contingent allowances.

2. The question has now been raised whether officers in the position of Inspectors of Police have power to demand copies of judgments and depositions from criminal Courts, and the Government considers it expedient to declare that this power is restricted in all cases to gazetted officers.

3. The District Magistrate of Bellary further enquires whether an officer may call for copies in cases where his own Subordinates are not concerned. Instances of such requisitions will be rare and the

Government

Government sees no reason why they should be prohibited.

4. It is advisable that all Heads of Departments should impress upon their subordinates the inconvenience which will be caused to the Criminal Courts by frequent applications for copies. Such applications should be made only when very good reasons exist.

(True Extract)

(Signed) J. F. Price,
Chief Secretary.

To all Sessions Judges.
" all District Magistrates.
" the Chief Presidency Magistrate.
" all Heads of Departments under the Judicial Department.
" all Departments of the Secretariat.
" the Accountant-General.

Copy to the Honorable the Chief Justice, with C. L.

"Copy"

Inspector General
of Police

No: 1858 / 1199 25-8-96

Section	Courts
File No	1488
Serial No	27

To

The Regr of the Chief Court

Sir,

I am directed to invite the Chief Court to reconsider Rule of Practice No 61 of 16 march 1895 (Criminal Side) to which the Sanction of the Govt was conveyed in Proceedings No 13831 / 1801 of 5 March 1895. This request I am to add is made on the ground that paras I to IV of the said Rule are found to cause some inconvenience to public business. Previous to the issue of the Rule in question ~~requisitions for Records of Criminal Courts used to be complied with from~~ Heads of Depts and ~~from~~ Dep Comrs ~~used to be complied with~~ for purposes of reference, and, if the Chief Court see no objection, the Govt. would like to see this practice restored.

Criminal Courts used, ~~to be complied~~ too as a matter of Ordinary official Courtesy and under the authority of an Executive order of the Govt, to comply with requisitions for ~~from~~ Records made by ~~Officials~~

Have &c

28/7/96.

Secy

W 3966

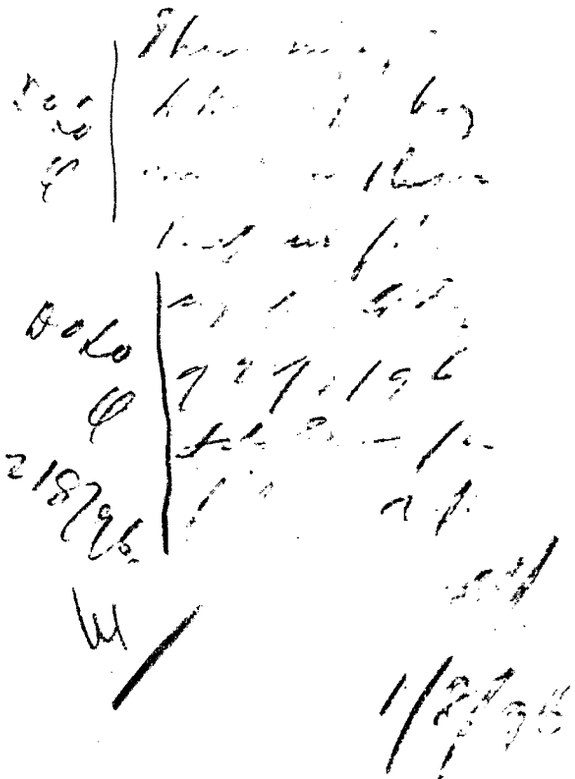
Secy.

This Draft is a good deal milder than the one which I wrote before and I believe that it is in the Sense of what was decided at the Discussion the other day.

28/7/96

Sealed Bill &c.

I submit that this Bill may be issued 30-7-96.



4785

(General Serial No. 30.)

1896-97 2 3565

J516

(43)

Section From Courts

No 1-8 The Registrar of the Chief Court of Mysore.

Serial No 28.

To The ~~General~~ Secretary to the Government of Mysore.

Dated 20th Oct./96

Despatched 21st —

Received 23 — —

Enclosures No.

General No. 2370

No. 110

States that the Judges have no objections to the modification proposed in paras 4, 5 and 6 of this office letter No. 1373 to the Chief Secretary to the Govt. dated 26th September/93 regarding the transmission of records.

The connected papers were put up with No. 3218 dt. 5-10-96 from Secretary Judl. Regd. & Sealed to Secy to Govt. Judl. Regd. 26-10-96

21.10.96

Sealed Envelope 2-11-96.

I quite agree with the Chief C.J.

Submit to Dewan

2/11/96

Submit to Dewan

5-11-96

Central Jail Press, Bangalore.—18-12-95.—502.

2/11/96.

N 2370/110

Bangalore 20th October 1896

(43)

From

The Registrar of the
Chief Court of Mysore.

To

The Secretary to the Government
of Mysore.

I do not agree I am sorry to say, Sir,

The Chief Court has considered the question "legality" of want of jurisdiction but the matter can be got over by the Government

With reference to your letter no. 1858/J199 dated 5th August 1896, requesting this Court to reconsider Criminal Rule of Practice no. 61 dated 16th march 1895 on the ground of inconvenience experienced when records are required for reference by the Government or by Heads of Departments, I am directed to state that the Judges have no objections to the modification proposed in paras 4, 5 and 6 of this office letter no. 1373/61 to the Chief Secretary to the Government, dated 26th September 1893. But the Judges do not think that the Rules should be relaxed further, as it is absolutely necessary to restrict the transmission of original records to prevent their being lost or tampered with.

I have the honor to be
Sir
your most obedient Servant
[illegible]
Registrar

OFFICE OF THE
207
29 SEP 1897
460
DEWAN OF MYSORE

46 189

From Cowie.
Section
File No 1-88
Serial No To 29.

The Inspector General of Police in Mysore.

The Secretary to the Govt. of Mysore, General and Revenue Depts.

Dated 25th
Despatched 26th September 1897.
Received 28-9-97
General No. 1236
No. 127
Enclosure No. one.

Forwarding extract from docket No 770 dated 25th ultimo from the Deputy Commissioner of Kolar and requesting that the rules of practice issued by the Chief Court prohibiting the obtaining by the Police of records from the Sessions Court may be modified.

29-9-97

OFFICE OF THE

INSPECTOR GENERAL OF POLICE IN MYSORE.

No. 1236/127 Enc. one.

Dated Bangalore 25th September 1897/26th.

FROM

THE INSPECTOR GENERAL OF POLICE IN MYSORE.

To

THE SECRETARY TO THE GOVT. OF MYSORE,
GENERAL AND REVENUE DEPARTMENTS.

SIR,

In Continuation of this Office letters noted in the margin requesting that the rule of practice No. 61 dated 16th March 1895 issued by the Chief Court, prohibiting the obtaining of records from the Sessions Court may be revised and the orders of Government as Contained in the Chief Secretary's No. 7637/735 of the 8th February 1889 restored, I have the honor to forward herewith for the information of Government extract from

No. 1561 dated 1-11-95.
No. 1502/261 dated 29-1-96.
No. 265/29 dated 21-7-96.

docket No. 77 dated 25th ultimo from the Deputy Commissioner, Kolar, bringing to notice the existing practice of not allowing magisterial records to be taken out of Court for reference and to request that the rule of practice of 16th March 1895 above referred to may be modified to enable this office to send for the records whenever required to check or guide the action of the Police in the Cases brought to notice.

I have the honor to be,
Sir
Your most obedient servant,

Inspector General
of Police

Gen. Serial No. 31.]

1897. (46 A.)

From The Deputy Commissioner, Kolar.

To The Inspector General of Police, in Mysore

Dated 25th

Despatched August 1897.

Received

Enclosures No.

General No. 77
No.

His No. 716 dated 7th July 1897.

× × ×

4. According to a late Circular from the Chief Court, magisterial records are not allowed to be taken out of the Court premises for reference. Police Officers not below the grade of Inspectors are allowed to take copies in the Court house in presence of

of the official in charge of the records. Requests therefore to be informed whether a copy of the whole of the magisterial records or any particular portion is to be copied and forwarded

(Signed) G. Krishna Rao
for Deputy Commissioner

"Extract"

J. Narasimha Rao
Inspector General
of Police.

4924
J 503 5-10-00.

To

The Registrar of the Chief Court of Mysore.

Section Courts
File No L-88
Serial No 30.

L 8

Sir;

I am directed to advert to the correspondence ending with your letter no $\frac{2370}{110}$ of the 20th Sept. 1896, regarding the modifications of Criminal Rule of Practice no 61 of the 16th March 1895, ~~in~~ regarding petitions for records by Govt. and Heads of depts.

2. The Govt propose to reserve for future consideration the question ~~how far~~ of allowing Heads of depts, such as the Police, to send for records of Criminal cases for reference when they wish to advise Govt. as regards the preferring of appeals against orders of criminal courts ~~on the~~ in cases ~~of~~ falling ~~by~~ any other action ~~with~~ regard to such cases.

Meanwhile I am to request you to be good enough to move the Judges of the Chief Court to revise the Rules of Practice no. 61 in the manner ~~to which~~ ~~they have~~ agreed to in your letter under acknowledgement and in your earlier letter of the 26th Septr. 1893 no. 1373/61 ~~I am to~~ and to forward the revised draft to Govt for approval

I have etc

14582

30.9.93

30.9.00

Sec.

Spare 4
2-10-00

Put Spare Today

DR 5/10

J 484

4274
18-10-00

(General Serial No. 30).

~~189~~ 1900-01

From The Registrar of the Chief Court, Mysore

To The Secretary to the Govt of Mysore

Dated 15th October 1900 hours

Despatched 17th No 1-88

Received Serial No 31

Enclosures No. two

General No. 2635

No. 70

Forwards for the approval of Govt the accompanying addenda et corrigenda to the Rule of Practice N. 61 dated 16th March 1895-

Jnd
18.10.00

J. F. No 38 of 1896-7 on the subject put up.

Received on 25-10-00.

Three new paras framed on the views suggested by the Ch. Comm in paras 4, 5 & 6 of Ser. (13) of this file are now proposed to be substituted for para 1 of the existing Ch. Court Rule of Practice

23/10/00

No 61. May a draft sanctioning be sent

25/10

Yes. 25/10

Draft sent
26/10.

49

Subs. the offr. Dewan this bring a reply to a reference made by the Chief Court under the offr. Dewans orders.

26/10

14963

I am very glad the Govt have agreed to accept a portion of the last proposals made by me. Consequently the Govt have agreed to the draft rules from the 1st of October 1900

25/10/1900

Draft subs. & 2nd Comm

27/10

Central Jail Press, Bangalore.—14-8-94.—3,703.

N 2635/70 Serial No 2

Bangalore 15th October 1900.

From

The Registrar of the

Chief Court of Mysore.

To

The Secretary to the

Government of Mysore,

General & Revenue Departments.

Sir

With reference to your letter No 4924/J503 dated 5th Instt, I am directed to forward, for the approval of Government, the accompanying Addenda et Corrigenda to the Rule of Practice No 61 dated 16th March 1895 drawn up in the manner suggested in paras 4,5, and 6 of this Office letter No 1373/61 dated 26th September 1893.

* Serial No 13.

I have the honor to be,

Sir,

Your Most Obedient Servant;

Registrar.

In the Chief Court of Mysore at Bangalore.

Addenda et Corrigenda dated 15th October 1900.

The Chief Court directs that the following rules be substituted for rules 1 of the Rule of Practice no. 61 dated 16th march 1895: the other rules being numbered respectively 4, 5, 6, 7, 8 and 9.

1. When Government desires to make an appeal under section 417 of the Code of Criminal Procedure and considers it essential to peruse the original record of the case, such record may be given into the possession of the Government Advocate or any responsible legal adviser of Government appointed to receive it under such precautions for securing its safe keeping and return as the Court may deem necessary.

II. Whenever Government desires to peruse the record of any Criminal

trial

trial, a requisition for it signed by the Govern-
ment advocate acting on behalf of Govern-
ment will be sent to the Sessions Judge or
to the District magistrate according as the
trial is in the Sessions Court or before a
magistrate with a certificate stating that the
perusal of the original record of the case
called for is necessary. On the receipt of
such a requisition, the Sessions Judge or the
District magistrate shall duly forward
the record in accordance with such requisition

III. Whenever Government deems it
desirable to obtain the opinion of the District
magistrate as to the necessity or otherwise
of further action in any Sessions trial, the
District magistrate may apply to the Chief
Court to direct the Sessions Court to forward
the records to the District magistrate on behalf
of Government.

D Rajaratnam

Registrar

Chw

IN THE CHIEF COURT OF MYSORE.

Criminal Side.

Rule of Practice No. 61, *dated* 16*th March* 1895

Under section 553 of the Code of Criminal Procedure and with the sanction of Government, the Chief Court has framed the following Rules, regulating the procedure to be observed, when requisitions for records of Criminal cases are made by Government or other Heads of Departments and prescribing Rules for inspection of records by officers of the Police Department.

I. Whenever Government desires to peruse the record of any Criminal trial, a requisition for it signed by the Chief Secretary or other officer authorized by Government to make a requisition, will be sent to the Sessions Judge or to the District Magistrate, according as the trial is in the Sessions Court or before a Magistrate. On the receipt of such a requisition, the Sessions Judge or the District Magistrate shall duly forward the record in accordance with such requisition.

II. Except as directed above, no Criminal Court shall send its records to any Court or any officer or any Department of Government, unless the requisition is made under the authority of any rule or law for the time being in force.

III. When a prosecution is instituted before a Criminal Court by any Department of Government, or when an officer of Government is an accused person, a copy of the final order or judgment shall be sent free of cost to the Head of the Department which instituted the prosecution or to whom the accused officer was subordinate.

IV. If the Head of the Department wishes to obtain a copy of the entire record (other than the copy of the final order or judgment furnished free of charge under the preceding para), he shall make an application to the presiding Judge or Magistrate and send any Officer or Clerk of his Department to make copies. The Officer or Clerk deputed for the purpose shall be deemed to be a licensed copyist and he shall be permitted to make a copy in the precincts of the Court-house and under the supervision of the Head Ministerial Officer of the Court.

V. Whenever it shall appear to any Officer of Police, not below the rank of Inspector of Police, that an inspection of the records of any Criminal trial or appeal will facilitate the detection or prevention of crime or is desired for examination of the conduct of Police officers connected with the case, such Officer may apply to the Sessions Judge or presiding Magistrate of the Court in which the records are lodged for permission to inspect the same.

VI. The application referred to in the preceding rule shall be made in writing and shall contain a description of the records and shall state the purpose for which the inspection is sought, and the Sessions Judge or Magistrate may grant or refuse the application as he may see fit. If the application is refused, the Sessions Judge or Magistrate shall record the reasons for refusal and shall communicate a copy thereof to the Officer of Police concerned. If the application is granted, the Sessions Judge or Magistrate shall make arrangements for permitting the inspection to be conducted in accordance with the next following rule.

VII. Every inspection of records under these rules shall be conducted by an Officer of Police not below the rank of Inspector of Police, it shall take place within the precincts of the Court in which the records are lodged and in the presence of an Officer of the Court who shall be deputed by the Sessions Judge or Magistrate for the purpose and no record or part of a record shall be removed by the inspecting officer from the precincts of the Court.

By order,

V. A. Rajaratna Mudaliar,
Deputy Registrar, doing duty as Registrar.

Section Read Court
File No Letter No 2635 of 15:
Serial No 32 70
October 1900 from the Registrar of the Chief Court of Cutch forwarding for approval an Addenda et Corrigenda to the Criminal Rule of Practice No 61 of 16: March 1895.

(Print in extenso the letter & the draft addenda et corrigenda)

Order No: 7623 of 1-12-1900.
843

The Government are pleased to accord sanction to the draft Addenda et Corrigenda to the Criminal Rule of Practice No 61 dated 16: March 1895 received with the letter read above.

Secretary.

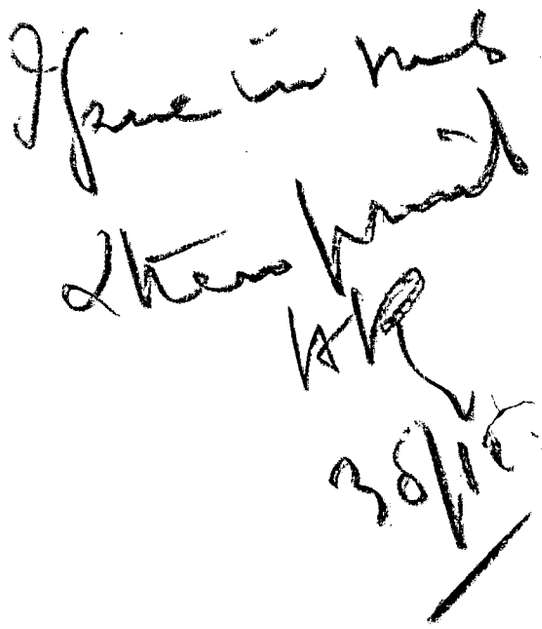
To
The Registrar of the Chief Court of Cutch

Subd. to appl. Drawn
for appl. 26/10

Subd. & 2nd. Cruse
for appl
27/10

28.10.00
477

Subd. I feel some what diffident to answer the above



query in the absence
of the Secy. on
leave.
The cash - distribution
of duties among the
members of Govt.
took effect from
the 11th Aug./50.
A question raised
by the Hon'ble Dewan
(then Sr. Counsr.
in charge of the
Judl. portfolio) on
the 8th Idem, was
dealt with by the
Secy. in his note
of the 8th Sept-/50.
Since this was accdg.
subs. direct to the

Index of subs. No-18
of file No-4-

Aff. Dewan. After
a further exchange
of notes, a letter
to the Regr. was drafted
by V. Chandrasekharan
dated on the 30th Sept./00
and was sent through
under the personal
direction of the Aff.
Dewan. This draft
was ordered to be issued
on the 2nd Oct./00, and
the papers do not appear
to have been seen then
Subs. & the 2nd Counsel.
as the matter was in
an intermediate stage.
The Regr's reply was subs.
to the Aff. Dewan
& the Aff.

by me on the 26th inst. as he had the initiation of the correspondence. The draft prepared on the Rep's letter has been duly subd. to the 2nd Counsr. for appd.

8/11/00

577

8/11

I fear this is no explanation - The Secretary knows who is responsible for a particular dept & should in my opinion refer the matter to the Member in charge in the first instance. By taking the papers to the Office devoted to ~~the~~ & in many cases obtaining his orders the Member

in Charge is placed
in a disadvantageous
position

18/11/1920 —

Sub. to 2nd. Comm.

The above orders
have been noted.

Lay the draft
order within ifsc —
(sanctioning the
proposed amendment)

21/11.

Yes. Planning
Objection

25/11/1920
Mysore

Rec. 29/11